



General Assembly

## ***Amendment***

February Session, 2016

LCO No. 5878



Offered by:  
REP. SRINIVASAN, 31<sup>st</sup> Dist.

To: Subst. Senate Bill No. 247

File No. 549

Cal. No. 546

(As Amended by Senate Amendment Schedule "A")

***"AN ACT CONCERNING A CAUSE OF ACTION FOR LOSS OF  
CONSORTIUM BY A MINOR CHILD WITH RESPECT TO THE  
DEATH OF A PARENT."***

1 Strike everything after the enacting clause and substitute the  
2 following in lieu thereof:

3 "Section 1. Section 52-190a of the general statutes is repealed and the  
4 following is substituted in lieu thereof (*Effective October 1, 2016, and*  
5 *applicable to actions filed on or after said date*):

6 (a) No civil action or apportionment complaint shall be filed to  
7 recover damages resulting from personal injury or wrongful death  
8 occurring on or after October 1, 1987, whether in tort or in contract, in  
9 which it is alleged that such injury or death resulted from the  
10 negligence of a health care provider, unless the attorney or party filing  
11 the action or apportionment complaint has made a reasonable inquiry  
12 as permitted by the circumstances to determine that there are grounds

13 for a good faith belief that there has been negligence in the care or  
14 treatment of the claimant. The complaint, initial pleading or  
15 apportionment complaint shall contain a certificate of the attorney or  
16 party filing the action or apportionment complaint that such  
17 reasonable inquiry gave rise to a good faith belief that grounds exist  
18 for an action against each named defendant or for an apportionment  
19 complaint against each named apportionment defendant. To show the  
20 existence of such good faith, the claimant or the claimant's attorney,  
21 and any apportionment complainant or the apportionment  
22 complainant's attorney, shall obtain a written and signed opinion of a  
23 similar health care provider, as defined in section 52-184c, which  
24 similar health care provider shall be selected pursuant to the  
25 provisions of said section, that there appears to be evidence of medical  
26 negligence and includes a detailed basis for the formation of such  
27 opinion. Such written opinion shall not be subject to discovery by any  
28 party except for questioning the validity of the certificate. The claimant  
29 or the claimant's attorney, and any apportionment complainant or  
30 apportionment complainant's attorney, shall retain the original written  
31 opinion and shall attach a copy of such written opinion, with the name  
32 and signature of the similar health care provider expunged, to such  
33 certificate. The similar health care provider who provides such written  
34 opinion shall not, without a showing of malice, be personally liable for  
35 any damages to the defendant health care provider by reason of  
36 having provided such written opinion. In addition to such written  
37 opinion, the court may consider other factors with regard to the  
38 existence of good faith. If the court determines, after the completion of  
39 discovery, that such certificate was not made in good faith and that no  
40 justiciable issue was presented against a health care provider that fully  
41 cooperated in providing informal discovery, the court upon motion or  
42 upon its own initiative shall impose upon the person who signed such  
43 certificate or a represented party, or both, an appropriate sanction  
44 which may include an order to pay to the other party or parties the  
45 amount of the reasonable expenses incurred because of the filing of the  
46 pleading, motion or other paper, including a reasonable attorney's fee.  
47 The court may also submit the matter to the appropriate authority for

48 disciplinary review of the attorney if the claimant's attorney or the  
49 apportionment complainant's attorney submitted the certificate.

50 (b) Upon petition to the clerk of the court where the civil action will  
51 be filed to recover damages resulting from personal injury or wrongful  
52 death, an automatic ninety-day extension of the statute of limitations  
53 shall be granted to allow the reasonable inquiry required by subsection  
54 (a) of this section. This period shall be in addition to other tolling  
55 periods.

56 (c) The failure to obtain and file the written opinion required by  
57 subsection (a) of this section shall be grounds for the dismissal of the  
58 action.

59 (d) Not later than ninety days after a civil action or apportionment  
60 complaint is filed, a claimant or the claimant's attorney, and any  
61 apportionment complainant or the apportionment complainant's  
62 attorney, shall file in court a written and signed opinion of a physician  
63 licensed pursuant to section 20-13, or licensed in another state that has  
64 same or greater requirements for licensure as a physician, that (1)  
65 states the physician has reviewed each written opinion filed pursuant  
66 to subsection (a) of this section, (2) states there appears to be evidence  
67 that the medical negligence of each named defendant caused the injury  
68 or death complained of, and (3) includes a detailed description of the  
69 manner in which the medical negligence caused the injury or death.  
70 The claimant or the claimant's attorney shall give notice of such  
71 written opinion to each party's attorney or, if the party is not  
72 represented by an attorney, to the party himself or herself. If the  
73 written opinion required by this subsection is not timely filed, the  
74 court shall, upon written motion, dismiss the action."

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2016, and applicable to actions filed on or after said date</i>	52-190a
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